

### REMARKS

Claims 1-21 and 26-28 are pending in this application and have been rejected in the Office Action. The claims have been amended as indicated above and support for the amendments can be found throughout the text and Figures of the original application.

The following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Office carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Office's understanding.

### Claim Objections

Claim 27 was objected to as being dependent on itself. Applicant thanks the Office for pointing out this error, which has been corrected in the above amendment to claim 27. Accordingly, Applicant requests withdrawal of this objection.

### Rejection under 35 U.S.C. § 102(b)

The Office has rejected claims 1-8 and 14 under 35 U.S.C. § 102(b) as being anticipated by Garvey (U.S. Patent No. 17272) for the reasons noted on pages 2-3 of the Office Action. Applicant respectfully traverses this rejection.

The rejected claims contain the limitation that the tunneler is removably retained to a multi-lumen catheter. The Office, however, has not shown that Garvey describes a device

containing such a feature. Indeed, it is unlikely that the Office can substantiate that the devices of Garvey contain such a feature since its devices are described as sewing needles.

Thus, the Office has not shown that the cited reference teaches each and every limitation in the claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection under 35 U.S.C. § 102(b)

The Office has rejected claims 1-8 and 14 under 35 U.S.C. § 102(b) as being anticipated by Bradley (U.S. Patent No. 899381) for the reasons noted on page 3 of the Office Action. Applicant respectfully traverses this rejection.

The rejected claims contain the limitation that the tunneler is removably retained to a multi-lumen catheter. The Office, however, has not shown that Bradley describes a device containing such a feature. Indeed, it is unlikely that the Office can substantiate that the devices of Bradley contain such a feature since its devices are described as sewing needles.

Thus, the Office has not shown that the cited reference teaches each and every limitation in the claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection under 35 U.S.C. § 102(b)

The Office has rejected claims 1-8 and 14 under 35 U.S.C. § 102(b) as being anticipated by Yoon (U.S. Patent No. 5437680) for the reasons noted on page 3 of the Office Action. Applicant respectfully traverses this rejection.

The rejected claims contain the limitation that the tunneler is removably retained to a multi-lumen catheter. The Office, however, has not shown that Yoon describes a device

containing such a feature. Indeed, it is unlikely that the Office can substantiate that the devices of Yoon contain such a feature since its devices are described as suture needles. *See Abstract.*

Thus, the Office has not shown that the cited reference teaches each and every limitation in the claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection under 35 U.S.C. § 102(b)

The Office has rejected claims 1-19, 26, and 27 under 35 U.S.C. § 102(b) as being anticipated by Ravenscroft et al. (U.S. Patent No. 6258026) for the reasons noted on pages 3-5 of the Office Action. Applicant respectfully traverses this rejection.

The rejected claims contain several limitations relevant to this rejection. First, some of the rejected claims contain the limitation that the tunneler is removably retained to a multi-lumen catheter. Second, some of the rejected claims contain the limitation that the tunneler creates a tunnel. Third, some of the rejected claims contain the limitation that the tunneler contains connector shaft members that are retained in the lumens of a catheter while the tunnel is created and then which are removed after the tunnel is created.

The Office, however, has not substantiated that Ravenscroft et al. describe a device containing each of these features. To begin with, the Office has not shown shown that Ravenscroft et al. describes a tunneler that can be used to create a tunnel using the tunneler shaft. Ravenscroft et al. describe that their device is a blood clot filter 10. *See Abstract.* The blood clot filter is introduced into a blood vessel by compressing the blood clot filter within a delivery tube

34 or catheter, inserting the tube/catheter into the desired location of the blood vessel, and then removing the tube/catheter. *See column 8, lines 37-42.* The Office has pointed to nothing in the disclosure of Ravenscroft et al. that describes that the blood clot filter contains a tunnel or that the blood clot filter 10 creates a tunnel.

Nor has the Office shown that Ravenscroft et al. describes a tunneler that contains connector shaft members that are retained in the lumens of a catheter while the tunnel is created and then which are removed after the tunnel is created. The Office alleges that Ravenscroft et al. describe a device where the connector shafts (18, 26) are capable of being retained in a catheter by using a protrusion (bend 22 for elements 18 and wider portions of elements 26 next to hooks 28). Applicant disagrees with this interpretation of Ravenscroft et al. The connector shafts 26 of Ravenscroft et al. are located within the delivery tube 34 by inserting them into grooves 50 of the filter delivery unit 32. *See column 8, lines 34-37.* In fact, the connector shafts 26 of Ravenscroft et al. are configured in such a position before the filter delivery unit 32 is inserted into the delivery tube 34 or catheter. Thus, it is unlikely that the connector shafts even contact the catheter or delivery unit 32. Such a conclusion is supported by Figure 8 of Ravenscroft et al. which show that a space exists between connector shafts 26 and the sidewall of the delivery tube 34.

Thus, the Office has not shown that the cited reference teaches each and every limitation in the claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection under 35 U.S.C. § 103

The Office has rejected claims 21 and 28 under 35 U.S.C. § 103 as being unpatentable over Ravenscroft et al. in view of Mertens (U.S. Patent Application No. 2003/0163082) for the reasons noted on pages 5-6. Applicant respectfully traverses this rejection.

The Office recognizes that Ravenscroft et al. fails to describe a multi-lumen catheter. The Office notes that Mertens describes multi-lumen catheters and argues that it would have been obvious to substitute the multi-lumen catheter of Mertens for the single lumen catheter of Ravenscroft et al. since it would have yielded predictable results.

As noted above, the Office has not shown that Ravenscroft et al. teach the three claim limitations noted above. And the Office has not argued, much less alleged, that Mertens describes these features. Thus, since the Office has not shown that any of the cited references teach these features, it is unlikely that the Office could show that the combination of references suggests these three limitations.

Thus, the Office has not shown that the proposed combination of references teaches or suggests each and every limitation in the rejected claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

CONCLUSION

For the above reasons, as well as those of record, Applicant respectfully requests withdrawal of the pending grounds of rejection and allowance of the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

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